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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,672	06/27/2003	Michael Paul Evans	RJENK11.001C1	8030

20995 7590 01/10/2007  
KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
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IRVINE, CA 92614

EXAMINER
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ORGAD, EDAN

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/10/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/10/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

**Office Action Summary**

Application No.

10/607,672

Applicant(s)

EVANS ET AL.

Examiner

Edan Orgad

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/27/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 23-39 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erving et al (US 5,426,460) in view of Grayson et al (US 2004/0001065).

Regarding claims 23 and 34, Erving teaches a multimedia client terminal (320) adapted to generate graphical image data defining a facial image which is animated to simulate actions accompanying speech (col. 3, lines 30-37) the terminal comprising: a receiver arranged to receive signals for processing by the terminal so as to retrieve data therein, said retrieved data comprising audio defining the speech to be spoken and command data defining animations to accompany said speech (col. 1, lines 46-63 & col. 3, lines 3-37). Erving further teaches a storage means for storing data defining vocal characteristics, data defining facial characteristics and data defining facial animations, and animated speech generating means responsive to said retrieved command data so as to select said facial animations and use said data defining vocal

Art Unit: 2618

characteristics and said data defining facial characteristics to animate said speech (col. 4, line 51- col. 5, line 11).

Erving discloses an audio communications but fails to disclose text communications. In related art Grayson teaches animating received communicates over a network by transferring a data stream of text and explicit commands from a host computer to one or more participant computers. The participant computers generating audible speech and implicit commands responsive to said text and generate and generate animation responsive to said implicit and explicit commands (§ 0011, 0021 and 0051).

It would have been obvious to combine Grayson's text to speech communications with Erving's existing audio communication in order to enable Erving's system to convert other forms of communications such as text into animation as well.

Regarding claim 24, Erving as modified above teaches the animated speech generating means is arranged to present said animated speech in conjunction with a graphical display of a face animated in accordance with said selected facial animation (col. 1, lines 46-63 & col. 3, lines 3-37).

Regarding claim 25, Erving as modified above teaches the facial animations include a talk animation, a smile animation and/or a wink animation (col. 3, lines 3-7).

Regarding claim 26, Erving as modified above teaches the animated speech generating means is arranged to render the animated facial image in accordance with said facial characteristics (col. 1, lines 46-63 & col. 3, lines 3-37).

Regarding claim 27, Erving as modified above teaches including skin color and hair color (Erving's camera, inherently display 301 with facial image 307 display hair and skin color).

Regarding claim 28, Erving as modified above does not specifically disclose the storage means is arranged to store data defining vocal characteristics, wherein said animated speech generating means is arranged to use said data defining vocal characteristics to generate said speech but fails to specifically disclose the vocal characteristics include voice gender, accent and language, however, its well known in the art to have speech animation that the gender, accent and language that is determined. Therefore, it would have been obvious to Erving's as modified by above to have vocal characteristics include voice gender, accent and language in order to have to avoid instances where gender and voice do not match.

Regarding claim 29, Erving as modified above teaches the signals comprise a multimedia document including a predetermined markup specifying a vocal style and/or a facial image and data defining facial animations (col. 3, lines 49-66).

Regarding claim 30, Erving as modified above fails to specifically disclose the multimedia document includes data identifying a start and an end of said speech. However, official notice is taken that including data identifying a start and an end for speech communication is well known in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include data identifying a start and an end of the speech with Erving visual multimedia in order to better manipulate the lips movement utilized by Erving

Regarding claims 31 and 32, Erving as modified above teaches the storage means is arranged to store data defining vocal characteristics, wherein animated speech generating means is arranged to use said data defining vocal characteristics to generate said speech and is arranged to select default facial characteristics and default vocal characteristics in response to reaching the

Art Unit: 2618

end of the speech as well as the facial characteristics and vocal characteristics are selectable (col. 3, lines 3-7 & lines 15-65).

Regarding claim 33, Erving as modified above teaches the terminal comprises a mobile communications terminal, and the receiver is arranged to receive said signals via a radio interface (col. 1, lines 46-63).

A multimedia client terminal according to claim 23, wherein said speech is

Regarding claims 35, Erving as modified above teaches using text-to-speech processing (Grayson: ¶ 0011, 0021 and 0051).

Regarding claim 36, Erving as modified above teaches said data defining the speech to be spoken comprises text (Grayson: ¶ 0011, 0021 and 0051).

Regarding claim 37, Erving as modified above teaches said speech is generated using text-to-speech processing (Grayson: ¶ 0011, 0021 and 0051).

Regarding claims 38 and 39, Erving as modified above fails to specifically disclose said data defining the speech to be spoken comprises a tag and said speech is generated using at least one pre-stored audio file associated with said tag. However, official notice is taken that the use of tags in storage device are well known. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use tags with Erving modified invention in order to provide order to the stored files.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edan Orgad whose telephone number is 571-272-7884. The examiner can normally be reached on 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Edan Orgad

EDAN ORGAD  
PATENT EXAMINER/TELECOMM.

Handwritten signature of Edan Orgad, dated 1/2/07.

Primary Patent Examiner  
Telecommunications.